

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:09CR27-1**

**UNITED STATES OF AMERICA }  
v.  
BERNARD VON NOTHAUS }**

**Supplement to Motion to Dismiss  
Challenging the Allegation that  
Liberty Dollars Are Counterfeit**

The defendant Bernard von NotHaus through counsel offers this supplement to the motion to dismiss challenging the allegation that the Liberty Dollar is a counterfeit of the U.S. coin. Section 5112, United States Code, Title 31, provides the definition of these coins regarding denomination, dimension, weight, and markings/devices, and each person is held to know the law including this law and cannot claim that something is counterfeit when in fact it does not fit the statutory definition of a coin.

According to § 5112(a)(1) through (5), relating to the silver-colored coins, no coins have the denomination, dimension, or weight of Liberty Dollars. According to § 5112(b), no silver-colored coin is .999 fine silver. All of the Liberty Dollars in question are .999 fine silver and accurately disclose this on the medallion. According to § 5112(d)(1), coins must have “In God We Trust,” and have “Liberty” on the obverse and “United States of America” and “E Pluribus Unum” and the designation of the value of the coin on the reverse. None of the Liberty Dollars contain this combination and arrangement of markings/devices. The Liberty Dollars do say “Liberty” consistent with the protest nature of the

Liberty Dollar. The Liberty Dollars do say “USA” but then most goods produced in the United States proudly declare the “USA” as their place of manufacture. The Liberty Dollars do say, “Trust in God,” but this is different from the official phrase inserted in the United States coins in the 1950’s.

As pointed out by Judge Wallace of the United States District Court for New York in *United States v. Bogart*, 9 Ben. 314, 24 F.Cas. 1185 (1878), the first known case to deal with this subject, “A counterfeit coin is one in imitation of the genuine. The coins known to the law are those authorized to be issued from the mints of the United States.” See, generally, *Waples v. United States*, 110 U.S. 630, 4 S.Ct. 225, 28 L.Ed. 272 (1884)(plaintiff presumed to know the law as to interest taken in sale from marshal of seized property).

There is no legal basis for alleging that the Liberty Dollars are counterfeits of United States coins. Therefore, the defendant prays that this Court grant his motion.

This the 4<sup>th</sup> day of February, 2011.

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served this ? day of ?, 2010, by means of the Electronic Filing System for the Western District of North Carolina, upon the following parties:

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